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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/716,314

11/20/2000

Mark Saliterman

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09/09/2004

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EXAMINER

GRIER, LAURA A

ART UNIT

PAPER NUMBER

2644

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/716,314	SALITERMAN, MARK	
	Examiner	Art Unit	
	Laura A Grier	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because line 1 recites, "disclosed" and line 2 recites, "invention". Correction is required. See MPEP § 608.01(b).

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 15, 17 and 19-20** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding **claim 15**, lines 6-7 recites, "an earpiece worn by at least one of said plurality of individuals...". It is unclear to the examiner as to whether or not one or two earpieces are claimed. Thus, the claim language of the claim is indefinite and unclear.

Regarding **claim 17**, line 5 recites, “an earpiece worn by at least one of said plurality of individuals...”. It is unclear to the examiner as to whether or not one or two earpieces are claimed. Thus, the claim language of the claim is indefinite and unclear.

Dependent **claims 19-20** are dependent upon claim 17.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 11-13** are rejected under 35 U.S.C. 102(e) as being anticipated by Scrivens et al., U. S. Patent No. 6728518.

Regarding **claim 11**, Scrivens et al. (herein, Scrivens) discloses event communication system (figure 1). Scrivens disclosure comprises a fixed frequency receiver (12) and a transmitter (30) for receiving and transmitting audio of various events with in a particular fixed space, in which a code mechanism is used to prevent unauthorized receipt of the broadcast signal, the receiver comprises a speaker/earpiece (16), which the receiver may be used by a multiple of persons (abstract, col. 3, lines 27-46), which reads on assigning a transmission protocol via an earpiece worn by a spectator, and collecting an audio signal, therein as claimed; Scrivens inherently discloses the transmission protocol not for use in subsequent events occurring within

the fixed space as evident by the fact that transmitter provides a radio signal related to the specific event, and particularly designed for the venue occupied by the event.

Regarding **claim 12**, Scrivens disclose everything claimed as applied above (see claim 11). Scrivens discloses a fixed frequency receiver (12), which, reads on the transmission protocol comprising a transmission frequency.

Regarding **claim 13**, Scrivens disclose everything claimed as applied above (see claim 11). Scrivens discloses a fixed frequency receiver (12) receiving a transmitted signal comprising a code mechanism that prevents unauthorized receipt of the broadcasting signal, which indicates that the transmission protocol comprising a spreading code.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claim 14** is rejected under 35 U.S.C. 103(a) as being unpatentable over Scrivens.

Regarding **claim 14**, Scrivens discloses everything claimed as applied above (see claim 11). Scrivens discloses a code mechanism and other means for preventing interception of the broadcast signal, However, Scrivens fails to disclose an encryption procedure as a transmission protocol. The use of encryption is commonly used technique in transmitting data/information. Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention

was made to modify the invention of Scrivens by implementing an encryption procedure as one of the means for preventing interception of the broadcast signal for the purpose of enabling personal and individual use with interference of the event communication system.

9. Claims 16, 18 and 21-26 are rejected under 35 U.S.C. 1103(a) as being unpatentable over Scrivens in view of Ogden.

Regarding **claims 16 and 18**, Scrivens et al. (herein, Scrivens) discloses event communication system (figure 1). Scrivens disclosure comprises a fixed frequency receiver (12) and a transmitter (30) for receiving and transmitting audio of various events with in a particular fixed space, in which a code mechanism is used to prevent unauthorized receipt of the broadcast signal, the receiver comprises a speaker/earpiece (16), which the receiver may be used by a multiple of persons (abstract, col. 3, lines 27-46), which reads on assigning a transmission protocol via an earpiece worn by a spectator, and collecting an audio signal, therein as claimed; and Scrivens inherently discloses the transmission protocol not for use in subsequent events occurring within the fixed space as evident by the fact that transmitter provides a radio signal related to the specific event, and particularly designed for the venue occupied by the event. However, Scrivens fails to disclose charging a fee in exchange or deriving revenue for the earpiece.

Regarding charging a fee in exchange or deriving revenue for the earpiece, in a similar field of endeavor, Ogden discloses transmission and reception system comprising a transmitter and a headset (earpiece) (figure 3 and 4), wherein the system may be sold to the public (col. 2, lines 58-65).

Thus it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Scrivens by implementing a fee/revenue to spectators in exchange for an earpiece for the purpose of acquiring financial gain.

Regarding **claims 21-26**, Scrivens discloses event communication system (figure 1). Scrivens disclosure comprises a fixed frequency receiver (12) and a transmitter (30) for receiving and transmitting audio of various events with in a particular fixed space, in which a code mechanism is used to prevent unauthorized receipt of the broadcast signal, the receiver comprises a speaker/earpiece (16) - (abstract, col. 3, lines 27-46), which reads on one or more signal conditioning units, and one or more transmitters, therein as claimed; and Scrivens inherently discloses the transmission protocol not for use in subsequent events occurring within the fixed space as evident by the fact that transmitter provides a radio signal related to the specific event, and particularly designed for the venue occupied by the event. However, Scrivens fails to disclose one or more audio collection units.

Regarding the audio collection units, in a similar field of endeavor, Ogden discloses a parabolic dish for receiving audio signals generated from verbal interaction during a sporting event within an arena, stadium, etc., which constitutes collecting an acoustic audio signal; and as well mixing console, which reads on a conditioning means (col. 3, lines 66-67 and col. 4, lines 1-26).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Scrivens by implementing a parabolic dish for the purpose of receiving audio signals from verbal interaction during a sporting event as taught by Ogden.

Regarding **claims 22-23**, Scrivens and Ogden discloses everything claimed as applied above (see claim 21). Ogden of Scrivens and Ogden, discloses the audio collection units comprising one or more parabolic microphones (col. 4, lines 53-65 and figure 5).

It would have been obvious to one of the ordinary skill at the time the invention was made to modify the invention of Scrivens and Ogden by providing parabolic microphones for the purpose of providing a microphone having optimal directivity, which is a primary characteristic of parabolic microphones and providing new and enhanced audio wireless transmission and reception.

Regarding **claims 24 and 26**, Scrivens and Ogden disclose everything claimed as applied above (see claim 21). Scrivens discloses a fixed frequency receiver (12) receiving a transmitted signal comprising a code mechanism that prevents unauthorized receipt of the broadcasting signal, which indicates that the transmission protocol comprising a spreading code.

Regarding **claim 25**, Scrivens and Ogden discloses everything claimed as applied above (see claim 21). Scrivens discloses a code mechanism and other means for preventing interception of the broadcast signal, However, Scrivens and Ogden fails to disclose an encryption procedure as a transmission protocol. The use of encryption is commonly used technique in transmitting data/information. Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Scrivens and Ogden by implementing an encryption procedure as one of the means for preventing interception of the broadcast signal for the purpose of enabling personal and individual use with interference of the event communication system.

Allowable Subject Matter

10. **Claims 15, 17 and 19-20** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to claims 11-26 have been considered but are moot in view of the new ground(s) of rejection.

The applicant essentially makes remarks about the amended limitation regarding the transmission protocol not useable for subsequent events occurring within the fixed space. The claim language fails to explicitly limit what is meant by subsequent events. A new prior art rejection, Scrivens et al., and an art rejection in combination with Ogden has been set forth in the Office Action above, which provides teaching of the claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (703) 306-4819. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

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Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the receptionist whose telephone number is (703) 305-4700.



Laura A. Grier

September 6, 2004